

### **Remarks/Arguments**

Reconsideration and allowance are respectfully requested in light of the following remarks.

Claims 1-3, 11, 18, 41, 43, 44, 58-62, 95, 96, 98-109 and 111 remain pending. Claim 106 is the only claim amended. Claims 4-10, 12-17, 19-40, 42, 45-57, 63-94, 97 and 110 were previously cancelled.

Claim 106 has been amended in response the rejection under 35 U.S.C 112 to specifically direct the claimed method to the treatment of atherosclerosis, pancreatitis, hypercholesterolemia and hyperlipoproteinemia, as supported by the application. Entry of this amendment is requested under Rule 116 as complying with a matter of form. While claim 43 was amended in the same manner in response to the previous office action, resulting in the Examiner withdrawing the rejection, claim 106 was inadvertently overlooked. Claim 106 thus is now amended in the same manner as the amendment to claim 43 that overcame the same rejection.

Claims 106 and its dependent claim 107 stand rejected under 35 U.S.C. 112, first paragraph as not being enabled for all disease states characterized by high low density lipoprotein particles (LDL) or cholesterol levels. This rejection is respectfully traversed.

The Office Action acknowledges that the specification and claims do enable methods of treating disease states characterized by high low density lipoprotein particles (LDL) or cholesterol levels selected from atherosclerosis, pancreatitis, and hyperlipoproteinemia.

Claims 106 has been amended to recite these disease states specifically and has also be amended to recite hypercholesterolemia, recited in original claim 56. As noted in the prior response, with the recognition that HMG-CoA reductase inhibitors can be used to treat hypercholesterolemia, skilled workers now would recognize and accept that compounds with the ability to upregulate LDL receptor synthesis also would have utility for treating this disease state

by virtue of their working on an inter-related mechanism for reducing cholesterol. Applicants submit that claim 106 limited to the specific disease states recited in claim 43 thus is enabled.

Claims 43-44, 54-60, 96, 101, 103 and 106-107 stand rejected for obviousness-type double patenting over claims 1-3, 7, 10-18, and 25-332 of US 6,417,176. These rejections are respectfully traversed.

With respect to this rejection, applicants submit a Terminal Disclaimer to facilitate an allowance of the rejected claims. By submitting the Terminal Disclaimer, applicants do not concede that the claims have been, or could be properly rejected as being unpatentable for obviousness-type double patenting in view of the patent referenced in the Terminal Disclaimer.

Reconsideration and the allowance of the pending claims are thus respectfully requested.

Respectfully submitted,

By. 

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